

REMARKS

Applicant hereby responds to the Office Action of October 9, 2007, in the above-referenced patent application. Attached hereto are the following additional documents: a Supplemental Information Disclosure Statement and a PTO-1449 Form. Applicant thanks the Examiner for carefully considering the application.

Status of Claims

Claims 20-32 are currently pending. Claims 20, 28, and 32 are independent.

Claims 20-32 were rejected under 35 U.S.C. 103(a) as being unpatentable over U.S.

Patent No. 5,758,257 ("Herz") in view of U.S. Patent No. 6,704,931 ("Shaffer").

Drawings

Applicant respectfully requests that the Examiner indicates acceptance of the formal drawings.

Claim Amendments

By way of this reply, claims 25-27 and 29 have been amended to correct minor informalities. No new matter has been added. In addition, none of the amendments changes the scope of the claims. Thus, no new search is necessary.

Rejection under 35 U.S.C. §103(a)

Rejection of claims 20-32 is respectfully traversed because, for at least the following reasons, Herz and Shaffer, whether considered separately or in combination, fail to show or suggest all of the claimed limitations.

The claimed invention is directed to a system and method for personalizing TV. Independent claim 20 requires, in part, "presenting the viewer with a list of TV programs available for viewing, the programs selected and arranged in accordance with the viewer characteristics information profile," *and* "receiving input from the viewer requesting different selections; and presenting the viewer with a list of alternative TV programs available for

viewing, the alternative programs selected in accordance with an alternative viewer characteristics information profile.”

Herz and Shaffer, whether considered separately or in combination, fail to disclose or suggest at least the above-mentioned limitations.

The instant Office Action asserts that Herz discloses more than one customer profile stored at the set top terminal, from which the user may receive a different list of suggested programming, thereby reading on the above-mentioned limitations. Applicant respectfully disagrees. Col. 45, lines 34-67 of Herz (relied upon in the instant Office Action) reads:

... a list of “preferred channel selections” or “virtual channels” is determined. ... Once the customer has selected the desired virtual channel from a highlighted program guide or a listing of the programs available on the virtual channels using the customer’s remote control unit, processor 906 then accordingly instruct channel selector 912 to tune the channels for the programming determined in accordance with the techniques of the invention to be most desirable to that customer. ...

As noted above, numerous customer profiles may be stored at each set top multimedia terminal, each corresponding to a different customer and/or mood of the customer or customers. ... In other words, the customer identifier functional block 918 may be used to differentiate multiple customers or to override the mood indicator 910 to allow the customer to select a different profile than that which would otherwise be recommended

From the above passage, it is clear that according to Hertz *only one set* of recommended programs *is presented*, and is presented only after the customer selects a profile. This is contrary to the claimed limitations discussed above, wherein the viewer is given the opportunity of providing a feedback *after* being presented with a program list based on a viewer characteristics information profile, and *then* being presented with an alternative list based on an alternative viewer characteristics information profile.

Schaffer, like Herz discussed above, also fails to show or suggest at least the above-mentioned limitations, and fails to supply that which Herz lacks. This is also evidenced by the fact that Schaffer is relied upon in the instant Office Action merely to supply a list of arranged

TV programs. Further, Shaffer displays programs based on the total recommendation scores of each channel, rather than the claimed display of programs based on program rating.

Further, Applicant respectfully submits that there is no reason, motivation or suggestion to combine Herz and Schaffer, and that Herz teaches away from the claimed invention. The teachings of Herz discussed above, particularly, with respect to only one set of recommended programs being presented *after* the customer selects a profile, are intended for blocking certain channels, such as adult channels, thereby preventing children from viewing such channels or even learning about the very existence of such channels. Had Herz and Schaffer been combined and modified to arrive at the claimed invention, the modified system would allow children to be presented with at least a list of undesirable programs such as adult programs, before viewer input is received and subsequently an alternative list is presented. If proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984).

Regarding independent claims 28 and 32, Applicant respectfully submits that the instant Office Action has failed to read in at least the claimed limitations “selecting a predetermined number of TV programs.” Thus, the rejection is improper and should be withdrawn. Indeed, both Herz and Schaffer are silent with respect to selecting the “predetermined number” of TV programs as claimed.

In view of the above, Herz and Schaffer, whether considered separately or in combination, fail to disclose or suggest at least the above-mentioned claim limitations. Further, there is no reason, motivation or suggestion to combine Herz and Schaffer, and Herz teaches away from the claimed invention. Thus, independent claims 20, 28 and 32 are patentable over Herz and Schaffer for at least the reasons set forth above. Dependent claims are allowable for at least the same reasons. Accordingly, withdrawal of the rejection of claims 20-32 is respectfully requested.

CONCLUSION

In view of the foregoing remarks, Applicant respectfully requests that the rejections of the claims be withdrawn, and that the case be passed to issue. If the Examiner feels that a telephone interview would be helpful to the further prosecution of this case, Applicant respectfully requests that the undersigned attorney be contacted at the listed telephone number.

Please direct all correspondence to **Myers, Dawes Andras & Sherman, LLP**, 19900 MacArthur Blvd., 11th Floor, Irvine, California 92612.

Respectfully submitted,

Myers Dawes Andras & Sherman, LLP


Kenneth L. Sherman, Reg. No. 33,783
19900 MacArthur Blvd., 11th Floor
Irvine, CA 92612
Tel: (949) 223-9600
Fax: (949) 223-9610
USPTO Customer No.: 23386